

Kraft, Nicole

From: Kraft, Nicole
Sent: Tuesday, September 24, 2013 12:26 PM
To: 'Tina M Hunt'
Subject: RE: FW: Thank You, Very Much - To Each Of You. 9/23/2013

Just me. You guys can call my office.

Thanks again.

From: Tina M Hunt [mailto:tml03@health.state.ny.us]
Sent: Tuesday, September 24, 2013 11:51 AM
To: Kraft, Nicole
Subject: RE: FW: Thank You, Very Much - To Each Of You. 9/23/2013

It would just be a couple of us from here and we would all call you from Roger's office. Depends on what you need on your end.

Tina M. Hunt, P.E.
Compliance/Information Systems Section Chief
New York State Department of Health
Center for Environmental Health
Bureau of Water Supply Protection
Corning Tower, Room 1168
Empire State Plaza
Albany, New York 12237
Phone (518)402-7650 Fax (518)402-7599
E-Mail: tml03@health.state.ny.us

▼ "Kraft, Nicole" ---09/24/2013 11:48:08 AM---11am Do we need a conference line? If so, I have one I can send around.

From: "Kraft, Nicole" <Kraft.Nicole@epa.gov>
To: Tina M Hunt/BWSP/DEHP/CEH/OPH/DOH@NYSDOH,
Date: 09/24/2013 11:48 AM
Subject: RE: FW: Thank You, Very Much - To Each Of You. 9/23/2013

11am

Do we need a conference line? If so, I have one I can send around.

Just let me know.

Thanks for scheduling.

Nicole

From: Tina M Hunt [<mailto:tml03@health.state.ny.us>]
Sent: Tuesday, September 24, 2013 11:31 AM
To: Kraft, Nicole
Subject: RE: FW: Thank You, Very Much - To Each Of You. 9/23/2013

How about 11am tomorrow?

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▼ "Kraft, Nicole" ---09/24/2013 09:33:31 AM---Thanks, Tina. A quick call would be great. I am open all afternoon and all day tomorrow and Thurs (

From: "Kraft, Nicole" <Kraft.Nicole@epa.gov>
To: Tina M Hunt/BWSP/DEHP/CEH/OPH/DOH@NYSDOH,
Date: 09/24/2013 09:33 AM
Subject: RE: FW: Thank You, Very Much - To Each Of You. 9/23/2013

Thanks, Tina.

A quick call would be great. I am open all afternoon and all day tomorrow and Thurs (except 12 to 1:30).

From: Tina M Hunt [<mailto:tml03@health.state.ny.us>]
Sent: Tuesday, September 24, 2013 8:34 AM
To: Kraft, Nicole
Subject: Re: FW: Thank You, Very Much - To Each Of You. 9/23/2013

Nicole -

This is in regards to United Water-NY (Rockland County) turbidity exceedance in July. Our office has been working directly with the Rockland Co HD on this issue. We also have a FOIL from this individual. We will check, but our understanding is that United Water does have a permit from DEC for copper sulfate application to Lake DeForest to deal with the algal issues. If you would like we could set up a quick call to discuss further.

Tina

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▼ "Kraft, Nicole" ---09/24/2013 08:08:07 AM---Good morning, Tina. See below. This came in as a FOIA and you can see Doug's response that we do no

From: "Kraft, Nicole" <Kraft.Nicole@epa.gov>
To: Tina M Hunt/BWSP/DEHP/CEH/OPH/DOH@NYSDOH,
Date: 09/24/2013 08:08 AM
Subject: FW: Thank You, Very Much - To Each Of You. 9/23/2013

Good morning, Tina.

See below. This came in as a FOIA and you can see Doug's response that we do not have responsive documents. The requestor asked for a contact at NYSDOH with whom to discuss this compliance matter.

Can you tell me what's going on here or should I contact Rockland Cnty and/or field coordinator?

Thanks.
Nicole

-----Original Message-----

From: McKenna, Douglas
Sent: Tuesday, September 24, 2013 7:58 AM
To: John J. Tormey III, Esq.
Cc: Kraft, Nicole; Calderon, Wanda
Subject: RE: Thank You, Very Much - To Each Of You. 9/23/2013

Mr. Tormey, Tina Hunt is in charge of water supply compliance at the state Health Department, her email is: tml03@health.state.ny.us

Thank you

-----Original Message-----

From: John J. Tormey III, Esq. [<mailto:jtormey@optonline.net>]
Sent: Monday, September 23, 2013 4:36 PM
To: McKenna, Douglas
Cc: Kraft, Nicole; Calderon, Wanda
Subject: Thank You, Very Much - To Each Of You. 9/23/2013
Importance: High

To:
McKenna.Douglas@epa.gov

cc:
Calderon.Wanda@epa.gov
Kraft.Nicole@epa.gov

Dear Mr. McKenna:

It is an honor to hear from you, and to be in touch with your kind colleagues Wanda Calderon and Nicole Kraft. Of course I remember your name from my prior bout with United Water in 2007 regarding arsenic in Rockland's drinking water. (My friend Charlie McKenna, Esq. is Gov. Christie's Counsel. I wonder if there is any relation?).

On Friday I have informed NYSDEC and its Head of Pesticides about the copper sulfate pesticide which United Water and "Pest Shield" dumped into Lake DeForest on July 25,

2013.

I have not yet informed NYSDOH about that same dumping, though, pending my obtaining documents reflecting the quantity of toxins dumped. However, if you can let me know of an appropriate contact-person and e-mail address at NYSDOH for this, I will share the information I have with them now, and I would be very appreciative to you for it.

My written Executive Summary of the copper sulfate dumping, follows below.

As I read page 8 of the attached "LDPCFETE", which I pulled from RCDOH by FOIL last Tuesday, United Water dumped so much copper sulfate pesticide into Lake DeForest, that the pH of the water immediately changed from a 7.5 to a 9.3. Here's the summary:

- - - -

"Dear Friends:

Without telling us in advance, and then concealing it post facto, United Water through its contractor "Pest Shield" of Suffern, NY dumped a very significant amount of copper sulfate pesticide into Lake DeForest in Rockland County, New York and thereby into our drinking-water supply on July 25, 2013. The actions appear to have been a last-ditch, panicked effort to kill off a massive overgrowth of algae in the negligently-maintained DeForest water supply, that had been driving up United Water's turbidity scores in weeks prior. United Water didn't care a whit about our health in killing the algae - rather, they cared about the PR implications of continued high turbidity numbers.

As it turned out, and as you know, United Water believed itself compelled to send us a water-quality turbidity letter circa August 16, 2013, a confession to violation and failure while studiously omitting such words of course. The turbidity letter was interpreted by United Water and RCDOH as on a 30-day clock - as in, "It's too late, folks, the public already drank the water anyway, and what they don't know in the immediate hopefully won't kill them".

But if the turbidity numbers had been much higher, as I understand it, United Water would have had to issue boil-water advisories and Tier 1 notifications of greater immediacy, which may have also invoked the

(federal) EPA. Rather than United Water publicly confessing to that supreme level of incompetence right prior to the October-scheduled desalination-plant hearings, United Water's exterminator-goons at Pest Shield instead dumped the pesticide/algae-poison into Lake DeForest at 6:00 AM on the July 25, 2013 after playing "bait-and-switch" with the dump-date - both actions taken presumably to evade roadside observation and discovery.

Speaking of studious omissions, United Water's turbidity letter of August 16, 2013 also studiously omitted the word "pesticide", nor was anyone quoted saying "pesticide" in Laura Incalcaterra's recent Journal News article following up on the turbidity letter. Laura is the same reporter who wrote the J/N article about how United Water was fined by NYSDEC between US\$20,000 to US\$40,000 last year in 2012, and forced to accede to a state DEC consent order for the 2012 misapplication and over-application of the exact same chemical and substance, copper sulfate pesticide, to our Lake DeForest. The only reason it was discovered that United Water dumped pesticide into Lake DeForest on July 25, 2013, is because I pulled 900+ pages of documents out of the Rockland County Department Of Health on Tuesday, and but one (1) and only one (1) of those 900+ pages told me so - a document written by United Water on United Water/Suez Environnement letterhead. (Attached). Otherwise, none of the Rockland rank-and-file public probably would have ever known or suspected, and the information could in theory have stayed suppressed forever. So much for transparency. So much for clean drinking water.

Everyone seems to be trying to conceal the pesticide-dump information, including United Water and Pest Shield. In fact, I phoned Pest Shield this past week and they denied on the phone that copper sulfate was even a pesticide:

<http://npic.orst.edu/factsheets/cuso4gen.html>

It is now a fair question to ask who in Rockland might have suffered digestive-tract or other health symptoms in or around July 25, 2013. It could have been the copper sulfate

pesticide in our drinking water.

The reason I know that the pesticide dump into DeForest on July 25, 2013 was overly-massive, is because, by United Water's own written admission which I also obtained by FOIL on Tuesday, the pH level in that massive body of water jumped from 7.5 to 9.3 within the space of one single day. I'm surprised that the copper sulfate pesticide didn't fill the DeForest watering-hole entirely as if it were solid land.

My cell is 914-450-9595. I know that you are busy. Fight the good fight.
Thank you for taking a close look at this when you can. This story will not get any smaller, I can assure you.

My best,

John J. Tormey III, Esq.
Pearl River, NY"

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Thank you for looking into this. It is a great comfort to know that you, Ms. Kraft, and Ms. Calderon are there.

Respectfully,

John J. Tormey III, Esq.

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-----Original Message-----

From: McKenna, Douglas [<mailto:McKenna.Douglas@epa.gov>]
Sent: Monday, September 23, 2013 1:45 PM
To: John J. Tormey III, Esq.; Calderon, Wanda
Cc: Kraft, Nicole
Subject: RE: Janette, This Is Wrong - 9/20/2013

Mr. Tormey,

While there is this back and forth on the procedures related to the FOIA, that Wanda is far more versed on than I, I just wanted to let you know that my office does not have responsive documents on this matter.

If asked the question directly I would have advised you to talk to the Rockland County Health Department which you have already done. In most cases the only time we are dealing directly with the water system is if they have sufficient violations over time to warrant a discussion with the State Department of Health. They report the violations to us and there is a process for our review and all.

That being said, based on this we too will be looking to get more information based on what you have described.

Doug McKenna, Chief
Water Compliance Branch

-----Original Message-----

From: John J. Tormey III, Esq. [<mailto:jtormey@optonline.net>]
Sent: Monday, September 23, 2013 11:06 AM
To: Calderon, Wanda
Cc: hq.foia@epa.gov; EZTech_Printer; Lewis, Monica; GROUP R2FOIA; Region2 FOIA; McKenna, Douglas
Subject: RE: Janette, This Is Wrong - 9/20/2013
Importance: High

Wanda, I appreciate your quick response back to me on this.

I want you and your EPA colleagues to be aware that this issue is now even more important, for a newly-discovered reason.

Last week, through FOIL to the Rockland County Health Department, I discovered that on July 23, 2013, United Water/Suez Environnement dumped a massive amount of copper sulfate pesticide into Lake DeForest Reservoir in Rockland County - our public drinking water supply.

United Water did this in reaction to the turbidity issue for which my FOIA to EPA seeks records.

Therefore the urgency and need for public awareness of how United Water contaminated, and continued to contaminate, the drinking water supply of 300,000+ people, is even more pressing.

Thank you,

John J. Tormey III, Esq.

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john_tormey_ab84@post.harvard.edu

-----Original Message-----

From: Calderon, Wanda [<mailto:Calderon.Wanda@epa.gov>]
Sent: Monday, September 23, 2013 8:43 AM
To: John J. Tormey III, Esq.
Cc: hq.foia@epa.gov; EZTech_Printer; Lewis, Monica; GROUP R2FOIA; Region2 FOIA; McKenna, Douglas
Subject: RE: Janette, This Is Wrong - 9/20/2013

Good morning Sir,

Thank you for your recent communication to the EPA with respect to the below mentioned case number. I'd like to clarify several administrative and policy issues raised in your follow up. The record shows your electronic submittal of September 3, 2013, did in fact select the YES entry in the expedited treatment field as you did with the fee waiver waiver portion, which by the way, is currently under review. Having selected the affirmative entry triggers an automatic flag which must be addressed. We have many submittals involving expedited treatment as well as fee waiver requests that do not meet the statutory requirement, hence, lead to adverse determinations. Having said that, you

can also exercise your right to submit an appeal in accordance with specified Agency FOIA regulations.

Note, the EPA has twenty working days, excluding holidays and weekends, to issue you an initial determination versus the "20-day deadline" outlined in your follow up. This brings the official system generated due date to October 2, 2013, in the absence of any unusual circumstances which permit for an additional ten working days to be added to the clock. This initial determination does not necessarily need to be accompanied by responsive files (see 1. Citizens for Responsibility and Ethics in Washington v. FEC, No. 12-5004, 2013 WL 1296289 (D.C. Cir. Apr. 2, 2013) (Kavanaugh, J.) 711 F.3d 180:

. Procedural: The D.C. Circuit states "[t]he exhaustion issue in this case boils down to what kind of agency response qualifies as a 'determination.'" The D.C. Circuit holds that "to make a 'determination' within the statutory time periods and thereby trigger the administrative exhaustion requirement, the agency need not actually produce the documents within the relevant time period[,] [b]ut the agency must at least indicate within [that time] the scope of the documents it will produce and the exemptions it will claim with respect to any withheld documents."

Conversely, you are absolutely right in that in an era of openness and transparency, bureaucratic hurdles should not exist, therefore, I have contacted our Washington, DC office to inquire about the status of your fee waiver determination. Additionally, I'm requesting via this communication, our regional program office contact me with regards to the progress of your request.

You are more than welcome to contact me directly on any FOIA related issues
- I'm glad to assist. Thank you for your patience and for contacting EPA.

Respectfully,

Wanda Calderon
FOIA Specialist
Public Outreach Branch
212-637-3668

From: John J. Tormey III, Esq. [jtormey@optonline.net]
Sent: Friday, September 20, 2013 7:53 PM
To: Miesles, Janette
Cc: hq.foia@epa.gov; EZTech_Printer; Lewis, Monica; GROUP R2FOIA; Region2 FOIA; Calderon, Wanda
Subject: Janette, This Is Wrong - 9/20/2013

Janette, the September 20, 2013 letter with attachment which you, Mr. Gottesman, and EPA just sent me, is simply plain wrong. I attach a copy back to you for your reference.

My FOIA did not ask for "expedited processing" - (as much as, yes, I would like to receive the documents now, now that you mention it). The phrase "expedited processing" does not appear anywhere in my August 30, 2013 FOIA to EPA. That said, as I read the statute, EPA is right at the 20-day deadline and is now in default, meaning that a federal court would now compel the production of documents to me for free anyway. I am very saddened to see that your EPA is so backed up with FOIA work that it cannot get me a correct response within the time prescribed. I remember when things were different, and better.

Rather, my FOIA and my supplemental filing specifically requested a FEE WAIVER - which is something entirely different than expedited processing.

Can you and EPA simply tell me that my fee waiver request has been granted, and send me the documents?

I've been patient - but this is an urgent matter of public health, and my FOIA was served on EPA on Friday, August 30, 2013 - 21 days ago.

Please. No more mistakes. No more bureaucratic confusion. Just please send me the FOIA'd documents. My water company just made me drink copper sulfate pesticide. I'm not in the mood for more errors or gamesmanship.

Thank you, and my best,

John J. Tormey III, Esq.

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From: mieles.janette@epa.gov [<mailto:mieles.janette@epa.gov>]

Sent: Friday, September 20, 2013 7:30 PM

To: jtormey@optonline.net

Subject: EP Determination

09/20/2013 07:29 PM

FOIA Request: EPA-R2-2013-009562